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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Serial - Control Number 09/773,303 - 90/005,892

Filing Dates 01/31/2001 - 12/20/2000

First Named Inventor Larry M. Proctor

Group Art Unit 1638

Examiner Name Amy Nelson

Total Number of Pages in This Submission

7+

Attorney Docket Number 19742/002

## ENCLOSURES (check all that apply)

☐ Fee Transmittal Form☐ Fee Attached☐ Amendment / Response☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☒ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Response to Missing Parts/  
Incomplete Application☐ Response to Missing  
Parts under 37 CFR  
1.52 or 1.53☐ Assignment Papers  
(for an Application)☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a  
Provisional Application☐ Power of Attorney, Revocation  
Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s) \_\_\_\_\_☐ After Allowance Communication to  
Group☐ Appeal Communication to Board of  
Appeals and Interferences☐ Appeal Communication to Group  
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s)  
(please identify below):

US Cited Art - 1

Other Cited References - 14

Statement Accompanying IDS -  
1 pageProceedings Information  
Pursuant to 37 CFR 1.178 and 37  
CFR 1.565 - 2 pages

Remarks

It is believed that no fees are due in this matter. However, if it is determined that fees are due, the Commissioner is authorized to debit Deposit Account No. 03-1725 for the required fees.

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm  
or  
Individual name

Brett L. Bornsen Reg. No. 46,566

Signature

Date

2-8-02

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the Federal Express as Overnight in an envelope

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Peggy L. Nieto

Signature

Peggy L. Nieto

Date

2/8/02

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19742/002

REISSUE LITIGATION

Practitioner's Docket No. 19742/002

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Proctor

Reissue of US Patent 5,894,079

Re-exam. of US Patent 5,894,079

Serial No.: 09/773,303

Control Number 90/005,892

Filed: 1/31/2001

Filed: 12/20/22000

For: FIELD BEAN CULTIVAR NAMED ENOLA

USPTO

Attn: Amy Nelson, Examiner

Crystal Mall 1

7<sup>th</sup> Floor

1911 S. Clark Place

Arlington, VA 22202

Group No.: 1638

Phone: (703) 306-3218

Statement Accompanying IDS

Dear Madam:

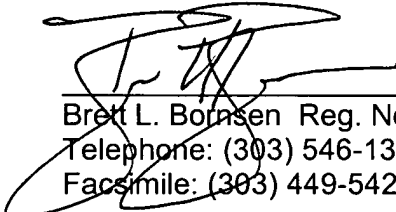
Regarding Cite number 10 of the IDS, the Requestor cited Chapters 3, 6, and 8 of the Common Beans book. Because the Examiner may wish to refer to other chapters, we have included and cited the Common Beans book in total.

Regarding Cite numbers 11-14 of the IDS, reference 11 purports to document experimental work proving that the subject matter of the invention in U.S. Patent 5,894,079 is anticipated by the Pimono 78 bean. The attached Declaration of Lorange Greenlee, Cite Number 13, is submitted to establish that the methodology and conclusions of the study are flawed and have no probative value.

A copy of these documents will be sent to the Requestor of the Re-examination.

Respectfully submitted,  
Faegre & Benson, LLP

Date: 2-8-02

  
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09773303-092502

REISSUE LITIGATION

Practitioner's Docket No. 19742/002

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Proctor  
Reissue of US Patent 5,894,079                      Re-exam. of US Patent 5,894,079  
Serial No.: 09/773,303                                  Control Number 90/005,892  
Filed: 1/31/2001    Filed: 12/20/22000  
For: FIELD BEAN CULTIVAR NAMED ENOLA

USPTO  
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Proceedings Information Pursuant to  
37 CFR 1.178 and 37 CFR 1.565

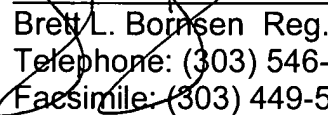
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Applicant provides the following information pursuant to 37 CFR 1.178 and 37 CFR 1.565: (1) Pod-Ners L.L.C. v. Tutuli Produce Corp. and Rebecca Gilliland is an action for infringement of the patent involved in these consolidated proceedings pending in the United States District Court for the Central District of California (Civil Action No. 99-10172-CBM (Mcx)). Defendants have alleged in counterclaims invalidity, noninfringement, unenforceability because of non-citation of Azufrado Pimomo 78 (Mayacoba) during prosecution, trade libel, intentional interference with prospective economic advantage, intentional interference with contractual relations, and Federal unfair competition. The action was stayed on August 20, 2001 pending resolution of these consolidated proceedings and the United States Supreme Court appeal in J.E.M. AG Supply, Inc. et al. v. Pioneer Hi-Bred International, Inc. (No. 99-1996, decided in favor of the patent and like patents on December 10, 2001); (2) Pod-Ners L.L.C. v. Northern Feed & Bean Of Lucerne Ltd. Liability Co., Yellow River, L.L.C., Highland Feed & Bean, Inc., Flying K Farms, Inc., Whitman Farms, Inc., Murata

Farms, L.L.C., Leland Benson, Lynn Fagerberg, Barnard Geisick, Jim Gibbs, Stan Heinze, Louie Fabrizious, Dennis Klein, Roger Troudt, Chuck Winter, and Steve Winter is an action for infringement of a Plant Variety Protection Certificate (No. 9700027) relating to the subject matter of the patent involved in these consolidated proceedings pending in the United States District Court for the District of Colorado. In addition to infringement, the complaint alleges Federal and State unfair competition, deceptive trade practices, and tortuous interference. One defendant has alleged in counterclaims invalidity, noninfringement, deceptive trade practices, intentional interference with prospective business relations and economic advantage, intentional interference with contractual relations, and Federal unfair competition.

Respectfully submitted,  
Faegre & Benson, LLP

Date: 2-8-02

  
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